

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #2	CCRB Case #: 201701717	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/04/2017 10:15 PM	Location of Incident: § 87(2)(b)	Precinct: 50	18 Mo. SOL 9/4/2018	EO SOL 9/4/2018	
Date/Time CV Reported Sun, 03/05/2017 4:49 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 03/05/2017 4:49 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Richard Oneill	10332	933122	050 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Tiffany Marchese	08360	957808	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Oneill	Abuse: Police Officer Richard O'Neill forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

### Case Summary

On March 5, 2017, § 87(2)(b) filed the following complaint with the Civilian Complaint Review Board (CCRB) via the Call Processing System. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

At approximately 4:45 p.m. on March 4, 2017, § 87(2)(b) called 911 to complain that someone had been vandalizing his home at § 87(2)(b) in the Bronx, by pouring bleach and urine on his front steps. Officers did not respond to his home for several hours, so § 87(2)(b) called again and complained to the Internal Affairs Bureau (IAB) that officers had not responded to his home in a timely fashion. He requested that officers instead respond to the § 87(2)(b) in the Bronx, where he was a temporary resident.

At approximately 10:15 p.m. on March 4, 2017, Police Officers Richard O'Neill and Tiffany Marchese of the 50<sup>th</sup> Precinct responded to the § 87(2)(b) in the Bronx. § 87(2)(b) explained his complaint to the officers, who recognized him as a frequent complainant at the 50<sup>th</sup> Precinct stationhouse. The officers were allegedly reticent to prepare a complaint report for § 87(2)(b). After an approximately ten minute back-and-forth argument, § 87(2)(b) allegedly threatened to inform IAB that they had refused to take his complaint. At that point, Police Officer O'Neill called for an ambulance, and upon its arrival, § 87(2)(b) was removed to the § 87(2)(b) (Allegation A). § 87(2)(b) was not arrested or summonsed.

No video footage was found for this case. Field work was conducted at the incident location on May 2, 2017, but no video cameras that would have captured the incident were observed (Board Review 10).

### Mediation, Civil and Criminal Histories

- § 87(2)(b) refused mediation because he wanted Police Officer O'Neill to be disciplined
- § 87(2)(b) has no prior criminal convictions (Board Review 01).
- A Notice of Claim search has been sent to the New York City Comptroller's Office, and the results will be added to the case file upon receipt.

### Civilian and Officer CCRB Histories

- This is the third CCRB case involving § 87(2)(b) (Board Review 02). § 87(2)(b)
- Police Officer O'Neill has been a member of the NYPD for thirteen years and has eleven prior CCRB allegations in six cases with one substantiated allegation. In CCRB Case #201409796, a discourtesy allegation was substantiated against Police Officer O'Neill and he received Command Discipline A. § 87(2)(g)

## **Findings and Recommendations**

### **Explanation of Subject Officer Identification**

- § 87(2)(b) provided the CCRB with the Police Officer O'Neill's name and shield number, and Police Officer Marchese's shield number. Both Police Officers O'Neill and Marchese accounted for their respective presences during this incident and their accounts of the incident paralleled the contours of the civilian accounts. The only officer identification in question is which officer made the original call for an ambulance. Police Officer O'Neill and Police Officer Marchese both claimed to have made the original request for an ambulance. By the accounts of both § 87(2)(b) and § 87(2)(b) Police Officer O'Neill called to request an ambulance. § 87(2)(g)

### **Allegation A – Abuse of Authority: Police Officer Thomas O'Neill forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) filed this complaint with the CCRB via the Call Processing System on March 5, 2017. § 87(2)(b) provided a telephone statement on March 10, 2017 (Board Review 03), was interviewed at the CCRB on March 17, 2017, and provided a follow-up telephone statement on April 24, 2017 (Board Review 04). Police Officer Marchese was interviewed at the CCRB on April 25, 2017. Police Officer O'Neill was interviewed at the CCRB on April 26, 2017. § 87(2)(b) was interviewed at § 87(2)(b) on May 2, 2017.

The general contours of this incident are not in dispute. It is undisputed that at approximately 4:45 p.m. on March 4, 2017, § 87(2)(b) called 911 and complained that someone had urinated and poured bleach outside of his home. When officers did not respond shortly, § 87(2)(b) called the Internal Affairs Bureau and complained in regards to his wait time. Ultimately he requested that officers take his complaint at the § 87(2)(b) in the Bronx. § 87(2)(b) was a temporary resident at § 87(2)(b) because he had a "mental health crisis" following a dispute with the Riverdale Press, a local newspaper, and Deputy Inspector Terrence O'Toole of the 50<sup>th</sup> Precinct, who had provided information about § 87(2)(b) to the Riverdale Press (Board Review 11).

It is undisputed that at approximately 10:15 p.m., Police Officers O'Neill and Marchese responded to § 87(2)(b). § 87(2)(b) was upstairs and § 87(2)(b) the desk attendant, called for him when the officers arrived. The officers recognized § 87(2)(b) but had not dealt with him directly in the past. § 87(2)(b) explained to the officers that he wanted to file a complaint in regards to the bleach and urine being poured on his home. After approximately ten minutes, Police Officer O'Neill requested an ambulance to have § 87(2)(b) transported to the hospital for a psychiatric evaluation. Police Officer Marchese completed a report for § 87(2)(b)'s complaint about his home (Board Review 06) and an AIDED Report regarding his removal to the hospital (Board Review 07). § 87(2)(b) was transported to § 87(2)(b) and was neither arrested nor summonsed. § 87(2)(b) and both officers who were present stated that at the time an ambulance was requested, § 87(2)(b) was not a threat to himself or to those around him.

What is in dispute is whether the officers were reticent to complete a complaint report on § 87(2)(b)'s behalf, and whether Police Officer O'Neill called an ambulance in retaliation for § 87(2)(b) threatening to complain to IAB.

§ 87(2)(b) and Police Officer O'Neill all stated that the officers repeatedly refused to complete a complaint report, and agreed that Police Officer O'Neill was the officer who called for the ambulance. Police Officer Marchese, however, stated that there was no point at which the officers refused to complete a complaint report, and that she "thought" she was the officer who called for an ambulance.

§ 87(2)(b) stated that Police Officer O'Neill was walking out of the door when he § 87(2)(b) threatened to complain to IAB that Police Officer O'Neill and Police Officer Marchese had refused to take his complaint. In response Police Officer O'Neill turned around and said, "Is that the way you want to play this? Is that the way you want to go?" Police Officer Marchese, who had already been on the way out of the door, said, "I'm taking a report." Then Police Officer O'Neill called on the radio for an ambulance for § 87(2)(b) to be taken to the North Central Bronx "psych ward."

§ 87(2)(b) stated that the officers had turned to walk out of the building and § 87(2)(b) walked within four or five feet of them with his finger pointed at them. He was "yelling at the top of his lungs" as he repeatedly said, "You are going to write a report." § 87(2)(b) threatened to call IAB and then continued to complain. Police Officer O'Neill said, "That's it," picked up his radio, and called for an ambulance.

Police Officer O'Neill stated that he did not recall whether he turned to leave before calling for the ambulance. He stated that he did so because § 87(2)(b) was "angry" and "agitated." Police Officer O'Neill guessed that § 87(2)(b) was agitated because the officers were not taking him seriously and because he had been waiting for so long. He described § 87(2)(b) as "fidgety," and explained that by this he meant that § 87(2)(b) was moving his head back and forth as he was interchangeably speaking to Police Officer O'Neill and Police Officer Marchese. Police Officer O'Neill did not believe that § 87(2)(b) was a threat to himself or others when he called for the ambulance. He stated that he called for the ambulance because he felt "more comfortable" putting § 87(2)(b) in an ambulance. Police Officer O'Neill was asked whether there was any reason § 87(2)(b) was taken to the hospital other than for his own comfort and he replied, "No."

Police Officer Marchese stated that the officers jointly decided to remove § 87(2)(b) to the hospital, but that they did not discuss the decision until after it was made. She did not recall who made the original call for the ambulance but thought that she did. She stated that the officers did not turn to leave the location before requesting the ambulance. § 87(2)(b) was removed because he was "agitated" and "erratic" and because she thought he was complaining that someone was trying to poison him.

Police Officers O'Neill and Marchese both had memo book entries in regards to this incident (Board Review 05). Police Officer Marchese's memo book indicated that § 87(2)(b) "filed

complaint with IAB. [He] stated that he was waiting since 14:00 for police and no one showed up,” and, “61 completed and c/v sent to NCB for psychiatric evaluation.”

The AIDED Report that was completed by Police Officer Marchese noted that § 87(2)(b) was “Emotionally Disturbed.” The prior history section was “unknown.” The ‘attempted physical harm to self,’ ‘attempted physical harm to others,’ ‘placed self in dangerous situation,’ ‘physically threatened others,’ ‘verbally threatened others,’ ‘spoke of harming self or others,’ ‘under possible narcotic influence,’ ‘under possible alcohol influence,’ and ‘Other’ sections were all marked “No.” The ‘unable to care for self’ section was marked “Yes.” The ‘Details’ section noted as follows; “At TPO listed aided is a resident of a group home for people with mental disabilities. POs responded to a 10-29 harassment call. Upon investigation c/v started acting irrational and paranoid stating “people are out to get him”. Aided sent to North Central Bronx for observation (*sic*)” (Board Review 07).

§ 87(2)(b)'s medical records from § 87(2)(b) (Privileged Documents) show that he had no prior psychiatric history, and that he was brought in by EMS after he had an argument with the police regarding filing a report about his house being sprayed numerous times by an unknown person. The records indicate that he may have had delusions and mild paranoia in regards to his complaint. He was diagnosed with an unspecified adjustment disorder. The ambulance was requested at 10:32 p.m., it arrived at 10:38 p.m., and it left the incident location at 11:00 p.m. The dispatch reason listed at as “EDP – Psychiatric Patient.” § 87(2)(b)'s chief complaint was listed as “im pissed off ” (*sic*). At the time he was evaluated, he was deemed neither a threat to himself or others. § 87(2)(b) was discharged at 1:06 a.m. on March 5, 2017.

According to Patrol Guide Procedure 221-13, an Emotionally Disturbed Person (EDP) is a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. When an officer reasonably believes that a person is an EDP, that person may be taken into protective custody and transported to the hospital for treatment (Board Review 09).

§ 87(2)(g)  
[REDACTED]

Squad 2

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date